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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,933	12/11/2003	Mihai Rasidescu	RP-01296-US2	6667
28735	7590	12/14/2005	EXAMINER	
OSLER, HOSKIN & HARCOURT LLP (BRP) 2100 - 1000 DE LA GAUCHETIERE ST. WEST MONTREAL, H3B4W5 CANADA			WALTERS, JOHN DANIEL	
			ART UNIT	PAPER NUMBER
			3618	

DATE MAILED: 12/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/731,933		RASIDESCU ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	John D. Walters		3618	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 May 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

### **DETAILED ACTION**

Claims 1 – 15 have been examined.

#### ***Drawings***

The drawings are objected to because:

- annotations contained within Figure 1 are redundant, unnecessary, and detract from the clarity of said figure.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because:

- reference character “10” has been used to designate both the ATV and the rear wheels;
- reference character “118” has been used to designate both the motorcycle and the front wheels.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description:

- reference number 14, the rear wheels;
- reference number 122, a single rear wheel.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

The disclosure is objected to because of the following informalities:

- priority is claimed to Provisional Application 60/431,244 filed 12/06/2002 while the instant application filing date is 12/11/2003, which exceeds the 12 month filing deadline and is therefore not granted;
- the reference numbers and descriptions of the various wheel types in paragraph 61 are replete with errors when compared to the relevant figure.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 – 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are indefinite because:

- Claims 1 and 10 recite the limitation of “one of a family of vehicles”, said family consisting of two vehicles chosen from a list of vehicle types. There is unnecessary obfuscation in the phrasing of this chain of choices. As best understood, said claims only require one vehicle from said lists and should be written to state such.
- Claim 1 recites a v-type engine being a component of a first vehicle and a component of a second vehicle. An engine cannot be a component in two vehicles simultaneously.
- Claims 2, 3, and 6 recite the limitation “the first transmission”. Should “a second vehicle” be chosen from claim 1, said vehicle would not include “a first transmission”.
- Claim 5 recites the limitation “the second transmission”. Should “a first vehicle” be chosen from claim 1, said vehicle would not include “a second transmission”.
- Claim 10 recites the limitation “water vehicle comprising the engine”. There is insufficient antecedent basis for this limitation in the claim. Said claim recites a v-type engine, an inboard engine, and an outboard engine.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 7 and 10 – 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Laimbock (6,467,562) in view of Pestotnik (6,182,784). Laimbock discloses a drive unit for a motorcycle comprising:

- a v-type engine (Fig. 2);
- said v-type engine comprising two cylinders being relative to one another at an angle between about 82 and 90 degrees (column 2, line 67);
- a transmission (Fig.2, item 9).

The transmission of Laimbock is directly connected to said engine via gearing. It is not separated and connected via an endless drive. Pestotnik, however, discloses an all terrain vehicle drive train comprising:

- a separate transmission (Fig. 2, item 68);
- an endless connector, i.e. belt, connecting said engine and said transmission (Fig. 2, item 44).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to use the endless connector of Pestotnik in the drive unit of Laimbock in order to provide flexibility in the placement of drive train components within said unit.

Claims 8, 9, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Laimbock (6,467,562) in view of Pestotnik (6,182,784) as applied to claims 1 – 7 and 10 – 13 above, and further in view of Ducati Museum web page. Laimbock in view of Pestotnik do not specify the engine displacement. The Ducati Museum web page, however discloses:

- development of a 750cc, 90 degree v-type engine in the early 1970s.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to make use of a 90 degree, v-type engine of 650cc or greater within the drive unit of Laimbock in view of Pestotnik in order to provide required power for high performance applications.

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to John D. Walters whose telephone number is (571) 272-8269. The examiner can normally be reached on Monday - Friday, 8am - 5pm.

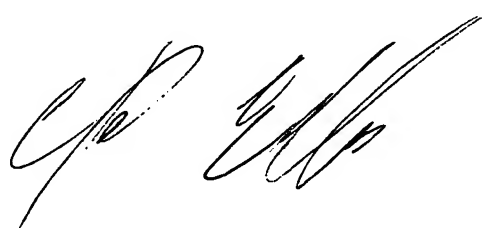
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3618

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

John D. Walters  
Examiner  
Art Unit 3618

JDW  




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